

RECEIVED
SDNY DOCKET UNIT UNITED STATES DISTRICT COURT

2018 AUG 10 AM 8:46

FOR THE

SOUTHERN DISTRICT OF NEW YORK

Siavosh Henareh,)
)
Petitioner,)
) Civil Action No. 14 Civil 7145(JSR)
)
v.) 11CR93(JSR)
)
)
United States of America,)
)
Respondent.)

Motion Requesting For Leave To Proceed In Forma Pauperis On
Appeal Under Federal Rule Of Appellate Procedure 24(a)(1)

Come now, petitioner Siavosh Henareh (hereinafter "Henareh")
Pro-se with this Motion Requesting For Leave to Proceed In Forma
Pauperis On Appeal Under Federal Rule of Appellate Procedure 24(a)(1)
and in support thereof provides as follows:

1. On July 18, 2018, the Court dismissed Henarehs' 28 U.S.C. §2255
Motion and claimed it "lack any arguable basis in law or facts."
2. Henareh, must file his notice of appeal in this court within 30
days after the judges' judgment and pay a filing fee of \$500.00.

"If the district court denies your motion to proceed in forma
pauperis on appeal and/or has certified under 28 U.S.C. §1915(a)(3),
an appeal would not be taken in good faith."

3. Henareh is incarcerated and being held at United States Penitentiary

Lompoc, CA 93436.

Henareh is also employed there and have an account in the institution, Henareh has attached to this motion a statement certified by the appropriate institutional officer showing all receipts, expenditures and balances during the last six months for any institutional account in Henarehs' name.

4. Henareh states that the limited funds that is sent in to the institution monthly is only enough to pay for hygienes and communication with his family overseas, which is expensive at .99¢ cent per minute.

5. Henareh, is a layman to the law, just learning as he go along. But in no way trying to frustrate this Honorable Court with this motion.

The government has a ethical obligation to remedy a wrongful ruling against Henareh, a layperson, pro-se defendant, unfamiliar with the rules of law and has limited funds and access to legal material.

The government have a duty to seek justice, but also a professional obligation of competence, not to take advantage of situations, but rectify wrongful rulings.

6. As this Honorable Court is well aware of pending motions requesting evidence withheld by the government, that can prove a "Brady" violation for suppressing exculpatory and material evidence when granted in Henarehs' favor.

CONCLUSION

Wherefore, petitioner Henareh, with the utmost respect prays this

Honorable Court grant this motion requesting for leave to proceed in forma pauperis on appeal under Federal Rule of Appellate Procedure 24 (a)(1) and in the alternative allow Henareh to pay a percentage of the filing fee and/or make payments to this Honorable Court.

Respectfully submitted,

Dated: July 25, 2018



Siavosh Henareh
Reg. No. 65976-054
United States Penitentiary
3901 Klein Blvd.
Lompoc, CA 93436

Certificate of Service

I, Siavosh Henareh hereby certify that I have served a true and correct copy of the following by placement in the inmate mail:

MOTION TO PROCEED IN FORMA PAUPERIS ON APPEAL

Service of process is deemed complete at the time of delivery to the United States Postal Service for forwarding to the Court. Houston v. Lack 101 L.Ed.2d 245 (1988) confirms that by such service upon the parties to litigation and or his/her attorney of record, by placement in a sealed, postage prepaid envelope addressed to:

Clerk of the Court
The Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

United States Attorney
Southern District of New York
86 Chambers Street
New York, New York 10007

and deposited in the United States Mail maintained by the United States Penitentiary Lompoc; Lompoc, California, all requirements of service of process required by law have been fulfilled this:

25 day of July 2018

United States Penitentiary
3901 Klein Boulevard
Lompoc, CA 93436-2706



(Name) Henareh Siavosh

65976-054
Bureau of Prisons Register
Number

RECEIVED
SDNY DOCKET UNIT
2018 AUG 10 AM 8:16
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Siavosh Henareh

(List the full name(s) of the plaintiff(s)/petitioner(s).)

1:14 CV07415 (JSR)(SDA)

-against-

United States of America

(List the full name(s) of the defendant(s)/respondent(s).)

**MOTION FOR LEAVE TO
PROCEED IN FORMA
PAUPERIS ON APPEAL**

I move under Federal Rule of Appellate Procedure 24(a)(1) for leave to proceed *in forma pauperis* on appeal. This motion is supported by the attached affidavit.

August 6, 2018

Dated



Signature

HENAREH, SIAVOSH

Name (Last, First, MI)

UNITED STATES PENITENTIARY-LOMPOC

3901 KELIN BLVD

Address

LOMPOC

City

CALIFORNIA

State

93436

Zip Code

N/A INCARCERATED

Telephone Number



E-mail Address (if available)

Application to Appeal In Forma Pauperis

Siavosh Henareh v. U.S.A.

Appeal No. 13-1305

District Court or Agency No. 11CR93 (JSR)

<p>Affidavit in Support of Motion</p> <p>I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)</p> <p>Signed: <u>August 6, 2018</u> </p>	<p>Instructions</p> <p>Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.</p> <p>Date:  <u>August 6, 2018</u></p>
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My issues on appeal are: (required):

Constitutional violation claims made by the Government by failing to provide me with exculpatory evidence, evidence that's clear and convincingly and totally vindicates me. My sentence and conviction are in violation of the U.S Constitution.

- For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment Incarcerated N/A	\$ 0	\$ 0	\$28.20	\$ 0
Self-employment	\$ 0	\$ 0	\$ 0	\$ 0
Income from real property (such as rental income)	\$ 0	\$ 0	\$ 0	\$ 0

Interest and dividends	\$ 0	\$ 0	\$ 0	\$ 0
Gifts	\$ 0	\$ 0	\$ 0	\$ 0
Alimony	\$ 0	\$ 0	\$ 0	\$ 0
Child support	\$ 0	\$ 0	\$ 0	\$ 0
Retirement (such as social security, pensions, annuities, insurance)	\$ 0	\$ 0	\$ 0	\$ 0
Disability (such as social security, insurance payments)	\$ 0	\$ 0	\$ 0	\$ 0
Unemployment payments	\$ 0	\$ 0	\$ 0	\$ 0
Public-assistance (such as welfare)	\$ 0	\$ 0	\$ 0	\$ 0
Other (specify):	\$ 0	\$ 0	\$ 0	\$ 0
Total monthly income:	\$0	\$0	\$0	\$0

2. *List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)*

Employer	Address	Dates of employment	Gross monthly pay
Incarcerated	United States Penitentiary 3901 Klein Blvd	08/01/2016	\$28.20
	Lompoc, CA 93436		\$
			\$

3. *List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)*

Employer	Address	Dates of employment	Gross monthly pay
My spouse resides in the country of Romania and I have no idea of her employment, I know that she sold rugs on the market.			\$
			\$
My wife is a Romanian citizen, and has just suffered a stroke, and is bed ridden and unemployed.			\$

4. How much cash do you and your spouse have? \$ 0

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
I do not have a bank account		\$ 0	\$ 0
nor am I a member of a credit union.		\$ 0	\$ 0
		\$	\$

If you are a prisoner seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home	Other real estate	Motor vehicle #1
(Value) \$ 0 N/A	(Value) \$ 0 N/A	(Value) \$ 0 N/A
I do not own or have tangible assets.	a home or any	Make and year: None
		Model: N/A
		Registration #: N/A

Motor vehicle #2	Other assets	Other assets
(Value) \$ None N/A	(Value) \$ None N/A	(Value) \$ None N/A
Make and year: None	None	None
Model: None	None	None
Registration #: None	None	None

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
None N/A	\$ 0	\$ 0
	\$ 0	\$ 0
	\$ 0	\$ 0
	\$ 0	\$ 0

7. State the persons who rely on you or your spouse for support.

Name [or, if a minor (i.e., underage), initials only]	Relationship	Age
Siamand Henareh	Son	12

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your Spouse
Rent or home-mortgage payment (including lot rented for mobile home) I have no real estate. Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No	\$ 0	\$ 0
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ 0	\$ 0
Home maintenance (repairs and upkeep)	\$ 0	\$ 0
Food	\$ 0	\$ 0
Clothing	\$ 0	\$ 0
Laundry and dry-cleaning	\$ 0	\$ 0
Medical and dental expenses	\$ 0	\$ 0

Transportation (not including motor vehicle payments)	\$ 0	\$ 0
Recreation, entertainment, newspapers, magazines, etc.	\$ 0	\$ 0
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's:	\$ 0	\$ 0
Life:	\$ 0	\$ 0
Health:	\$ 0	\$ 0
Motor vehicle:	\$ 0	\$ 0
Other:	\$ 0	\$ 0
Taxes (not deducted from wages or included in mortgage payments) (specify):	\$ 0	\$ 0
Installment payments		
Motor Vehicle:	\$ 0	\$ 0
Credit card (name):	\$ 0	\$ 0
Department store (name):	\$ 0	\$ 0
Other:	\$ 0	\$ 0
Alimony, maintenance, and support paid to others	\$ 0	\$ 0
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ 0	\$ 0
Other (specify):	\$ 0	\$ 0
Total monthly expenses:	\$ 0	\$ 0

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes

☒ No

If yes, describe on an attached sheet.

10. Have you spent — or will you be spending — any money for expenses or attorney fees in connection with this lawsuit? ☐ Yes ☒ No

If yes, how much? \$ _____

11. *Provide any other information that will help explain why you cannot pay the docket fees for your appeal.*

I am incarcerated and destitute with no financial support.
I make \$28.20 per moth as a worker in the prison Hobby Shop.

12. *Identify the city and state of your legal residence.*

City LOMPOC State CALIFORNIA

Your daytime phone number: N/A Incarcerated

Your age: 62 Your years of schooling: College Graduate in Romania
In Medicine.

Last four digits of your social-security number: N/A I'm a citizen of Iran
with temporary residence in Romania. I do not have a
Social Security Number. I was extradited to the United States.


Inmate InquiryRECEIVED
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Inmate Reg #: 65976054
 Inmate Name: HENAREH, SIAVOSH
 Report Date: 08/05/2018
 Report Time: 2:08:53 PM

Current Institution: Lompoc FCC
 Housing Unit: 2018 AUG 10 AM 8:46
 Living Quarters: L05-009L

General Information | Account Balances | Commissary History | Commissary Restrictions | Comments

General Information

Administrative Hold Indicator: No
 No Power of Attorney: No
 Never Waive NSF Fee: No
 Max Allowed Deduction %: 100
 PIN: 7217
 PAC #: 885544300
 Revalidation Date: 19th
 FRP Participation Status: Completed
 Arrived From: VIM
 Transferred To:
 Account Creation Date: 11/17/2011
 Local Account Activation Date: 8/18/2015 3:18:32 AM
 Sort Codes: 
 Last Account Update: 8/5/2018 1:36:28 PM
 Account Status: Active
 Phone Balance: \$17.72

Pre-Release Plan Information

Target Pre-Release Account Balance: \$0.00
 Pre-Release Deduction %: 0%
 Income Categories to Deduct From: ☐ Payroll ☐ Outside Source Funds

FRP Plan Information

FRP Plan Type	Expected Amount	Expected Rate
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Account Balances

Account Balance: \$50.53
 Pre-Release Balance: \$0.00
 Debt Encumbrance: \$0.00
 SPO Encumbrance: \$0.00
 Other Encumbrances: \$0.00
 Outstanding Negotiable Instruments: \$0.00

Administrative Hold Balance: \$0.00
 Available Balance: \$50.53
 National 6 Months Deposits: \$698.95
 National 6 Months Withdrawals: \$674.14
 Available Funds to be considered for IFRP Payments: \$248.95
 National 6 Months Avg Daily Balance: \$85.67
 Local Max. Balance - Prev. 30 Days: \$111.43
 Average Balance - Prev. 30 Days: \$84.18

Commissary History

Purchases

Validation Period Purchases: \$24.20
 YTD Purchases: \$448.75
 Last Sales Date: 7/30/2018 5:33:11 PM

SPO Information

SPO's this Month: 0
 SPO \$ this Quarter: \$0.00

Spending Limit Info

Spending Limit Override: No
 Weekly Revalidation: No
 Bi-Weekly Revalidation: Yes
 Spending Limit: \$180.00
 Expended Spending Limit: \$0.00
 Remaining Spending Limit: \$180.00

Commissary Restrictions

Spending Limit Restrictions

Restricted Spending Limit: \$0.00
 Restricted Expended Amount: \$0.00
 Restricted Remaining Spending Limit: \$0.00
 Restriction Start Date: N/A
 Restriction End Date: N/A

Item Restrictions

List Name	List Type	Start Date	End Date	Active
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Comments

Comments:

DHO/IR#2764459/90DAYS LOSS OF COMMISSARY

August 6, 2018

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Clerk of The U.S. Court of Appeals
United States Court of Appeals
For The Second Circuit
Thurgood Marshall United States Courthouse
40 Centre Street, 18th Floor
New York, NY 10007-1501

RE: United States of America v. Siavosh Henareh

DC No.: 11CR93-(JSR)

CAP No.: 13-1305

Civil No.: 1:14-CV07415-(JSR)-(SDA)

Subject: Filing of Notice of Appeal and Motion To Leave
To Proceed In Forma Pauperis On Appeal

Dear Court Clerk,

Please find enclosed herewith the motion aforementioned.
The notice of appeal shall follow accordingly, as it's being
prepared at this time.

Please at your earliest convenience notify me of any status
updates concerning this matter. I may be contacted at the address
listed below or affixed to the envelope, and I look forward to
your anticipated response.

Sincerely,



Siavosh Henareh #65976-054
United States Penitentiary-Lompoc
3901 Klein Blvd
Lompoc, CA 93436

cc: File